

**AGENDA ITEM #13**

May 10, 2002

To: Delta Protection Commission

From: Margit Aramburu, Executive Director

Subject: Draft Letter re: H.R. 3554 (Ose), Legislation to Transfer Little Holland and Prospect Islands to the State of California.  
*(For Possible Commission Action)*

**Background:**

The Commission briefly discussed this matter at its March 2002 meeting and asked the CALFED Committee to provide a recommendation for action. There was some interest in taking a position on the federal bill, and there was some discussion of the value of State ownership since the Commission has six State Commissioners. The CALFED Committee discussed the draft legislation on May 2, 2002 and reviewed the attached draft letter.

**Recommendation:**

**The legislation was reviewed by the CALFED Committee. The CALFED Committee recommended the Commission take a position on the legislation, and the Commission should recognize and support the aspects of the legislation that support positions taken by the Commission in the past including: development of a management plan in a public process; participation by local government and interested parties; and participation by the Delta Protection Commission. The CALFED Committee concurred that ownership of land by the State allows for more direct communication and discussion of issues of concern to the community and neighboring landowners. The in-lieu tax issue and the lack of funds to plan and manage the site were not seen as insurmountable obstacles.**

**Project Location and Status:**

Little Holland Tract (1,640 acres), Solano and Yolo Counties, flooded in the late 1980's.

After several years of negotiations, the Army Corps of Engineers purchased the land from the private property owners in 1999. The Island is within the Yolo Bypass. The Island is flooded, some aquatic and riparian vegetation has "volunteered" on the site. There is no management or management plan for the Island. Little Holland is within the study area of the U.S. Fish and Wildlife Service's proposed North Delta National Wildlife Refuge. No refuge boundary has been set.

Prospect Island (1,228 acres) was purchased by the Bureau of Reclamation in 1995. A plan by Corps of Engineers and the Department of Water Resources to breach the levee

in two locations and restore the site to tidal action has been prepared and two environmental documents have been circulated. The restoration work has not yet started. The Island is within the original boundaries of the Yolo Bypass, and is still subject to a State-held flood easement, although the Island is cutoff from the main portions of the Yolo Bypass by the Sacramento Deepwater Ship Channel and its two levees. Prospect Island is within the study area of the U.S. Fish and Wildlife Service's proposed North Delta National Wildlife Refuge. No refuge boundary has been set.

### **Proposed Legislation:**

Congressman Doug Ose introduced a bill on December 20, 2001 that would transfer Little Holland and Prospect Islands to the State, and requires the State to prepare a Management Plan with the assistance of a public Advisory Board. There have been no Changes to, nor hearings on, the bill.

New Congressional district boundaries have been adopted which affect the affect properties at issue. The northern half of Little Holland is now in Congressman Mike Thompson's district; the southern portion of Little Holland and Prospect Island remain in Congressman Ose's district.

### **Management Plan:**

The draft legislation states the Management Plan would:

- Provide that the primary purpose of the wildlife area is flood control.
- Provide for the perpetuation of the ecosystem of the wildlife area.
- Provide for the preservation, restoration and enhancement of natural ecosystems of all endangered or threatened plant and animal species in the wildlife area, and their habitat.
- Provide for high-quality, wildlife-related educational and recreational experiences.
- Encourage volunteers and partnerships among federal government, local communities, conservation organizations and other entities to promote awareness of the wildlife area and its resources.
- Provide scientific research opportunities.
- Plan and design trails in the wildlife area and public access points to those trails.

- Provide for hunting and fishing within the wildlife area.
- Provide for planning of wildlife and habitat restoration within the wildlife area.

The legislation specifically does not impact water use or water rights reserved or appropriated by the United States.

### **Advisory Board:**

The nine-member Advisory Board would meet monthly in a public meeting to prepare the management plan. The members of the Advisory Board would include:

- Mayor of the City of West Sacramento
- Yolo County Board of Supervisors
- Solano County Board of Supervisors
- Solano County Farm Bureau
- Yolo County Farm Bureau
- The Mayor of the City of Rio Vista
- California Waterfowl Association
- North Delta Water Agency
- Delta Protection Commission

### **Commission Positions on Changes in Ownership:**

The Commission has never supported one type of public ownership over another; the Commission has supported keeping Delta lands in private ownership.

The Commission did provide extensive comments to the Wildlife Conservation Board regarding its proposed acquisition of land in the upper Yolo Bypass. Those comments included:

- Coordinate the management plan with the Yolo County HCP planning process
- Retain water rights on the site within Yolo County
- Commit to a public process for development of the management plan, including participation by representatives of the Delta Protection Commission
- Coordinate the project with the CALFED Program's "Blueprint" for Ecosystem Restoration
- Pay fees in-lieu of property and other taxes and fees
- Lands currently in agriculture be maintained in agriculture until a management plan is adopted
- Prepare appropriate environmental documentation for adoption of the management plan
- Maintain the flood control capacity of the Yolo Bypass for current and future projected flood flows.

It appears that many of these comments are similar to the conditions included in Congressman Ose's bill.

**In-Lieu Fees:**

Neither the State, nor federal government pay local taxes.

The federal government/wildlife refuge sets up an in-lieu payment program based on assessed value of the property; that assessment is updated every five years. Payment of the in-lieu fees is subject to funding by Congress.

If the lands were transferred to Department of Fish and Game and the lands would generate some income, such as through a hunting program, DFG would pay an in-lieu fee based on the value of the property when acquired. Payment of in-lieu fees is subject to funding by the Legislature; those fees were deleted from the State budget for FY 02-03 due to budget shortfalls.

107th CONGRESS  
1st Session  
**H. R. 3554**

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**A BILL**

To transfer to the State of California certain Federal land in Yolo and Solano Counties, California, to provide for the establishment of a wildlife area on that land, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TRANSFER OF LAND.**

(a) IN GENERAL- As soon as practicable after the date of the enactment of this Act, the Secretary of the Interior shall transfer to the State of California all right, title, and interest of the United States in and to the approximately 2,868 acres of land described in subsection (b).

(b) LAND DESCRIBED- The land referred to in subsection (a) is described as follows:

- (1) PROSPECT ISLAND- The approximately 1,228 acres of land known as Prospect Island and generally depicted on the map entitled **XX** and dated **XX**.
- (2) LITTLE HOLLAND TRACT- The approximately 1,640 acres of land west of Prospect Island known as the Little Holland Tract and generally depicted on the map entitled **XX** and dated **XX**.

**SEC. 2. CONDITIONS OF TRANSFER.**

The Secretary shall make the transfer under section 1 only under the following conditions:

- (1) HOLD HARMLESS- Prior to or contemporaneous with the transfer, the State enters into a written agreement with the Secretary to hold the United States harmless from all claims arising from or through the operation of the land and improvements transferred.
- (2) MANAGEMENT PLAN REQUIRED- Prior to the transfer, the State shall submit to the Secretary a Management Plan. The Secretary shall only approve the Management Plan if it--
  - (A) meets the criteria in section 4; and
  - (B) has been developed with the input of an advisory board that meets the criteria in section 5.
- (3) ADMINISTRATION OF LAND-
  - (A) BEFORE APPROVAL OF MANAGEMENT PLAN- Before the approval of a Management Plan under paragraph (2), the State shall administer the land transferred under section 1 substantially in

accordance with the requirements for the Management Plan as set forth in section 4.

(B) AFTER APPROVAL OF MANAGEMENT PLAN- After approval of the Management Plan under paragraph (2), the State shall administer the land transferred under section 1 in accordance with the approved Management Plan.

(C) AMENDMENTS AND MODIFICATIONS TO MANAGEMENT PLAN- The State shall not act on any amendment to or modification of the approved Management Plan unless the amendment or modification has been approved by the

Secretary in the same manner that the Management Plan was approved.

(4) CONDITIONS FOR ACQUISITION OF CERTAIN WATERS- Prior to or contemporaneous with the transfer, the State enters into a written agreement with the Secretary stating that the State agrees not to acquire for the Wildlife Area any right to water within the Sacramento River Watershed until after--

(A) the State has completed the appropriate environmental documentation for the acquisition; and

(B) such acquisition is approved by the board of supervisors for each originating source county and destination county prior to the acquisition.

### **SEC. 3. AUTHORITY OF STATE BOARD OF RECLAMATION.**

Notwithstanding the provisions of the Management Plan, the State Board of Reclamation may increase the flood conveyance capacity of the Yolo Bypass if the State Board of Reclamation determines that such an increase is necessary to protect land, property, or people located within the State that are within or outside of the boundaries of the Wildlife Area. The authority of the State Board of Reclamation under this section shall not be subject to review by, nor may it be superseded by, any action by the United States Army Corp of Engineers.

### **SEC. 4. MANAGEMENT PLAN.**

The Management Plan shall--

- (1) provide that the primary purpose of the Wildlife Area is flood control;
- (2) provide for perpetuation of the ecosystem of the Wildlife Area;
- (3) provide for the preservation, restoration, and enhancement of natural ecosystems of all species of animals and plants that are endangered species or threatened species (as those terms are used in the Endangered Species Act of 1973 (16 U.S.C. 1331 et seq.)) and that occur within the Wildlife Area;
- (4) provide for the preservation and restoration of all species of animals and plants in the Wildlife Area that are listed under the Endangered Species Act of 1973 (16 U.S.C. 1331 et seq.), including the conservation, enhancement, and restoration of the habitat of those animals and plants;
- (5) provide for perpetual conservation of the natural diversity and abundance of fauna and flora on land and waters in the Wildlife Area;
- (6) contain provisions for exhibits and facilities and regular educational programs throughout the Wildlife Area to provide opportunities for the public

to participate in high-quality, wildlife-related educational and recreational experiences in order to develop a greater understanding of and appreciation for fish and wildlife ecology and the role of humans in the environment;

(7) encourage the use of volunteers and facilitate partnerships among the Federal Government, local communities, conservation organizations, and other non-Federal entities to promote public awareness of the resources of the Wildlife Area and public participation in the conservation of those resources;

(8) provide scientific research opportunities consistent with the purposes and needs of the Wildlife Area;

(9) contain provisions for planning and design of trails within the Wildlife Area and public access points to those trails;

(10) contain provisions that allow for hunting and fishing within the Wildlife Area; and

(11) contain provisions for planning of wildlife and habitat restoration within the Wildlife Area.

## **SEC. 5. ADVISORY BOARD.**

(a) **GENERAL REQUIREMENTS-** In order to meet the conditions under section 2, the advisory board that develops the Management Plan shall meet the requirements of this section.

(b) **TOTAL NUMBER OF MEMBERS-** The advisory board shall have 9 members as follows:

(1) One member appointed by each of the following:

- (A) The mayor of the city of West Sacramento.
- (B) The Yolo County Board of Supervisors.
- (C) The Solano County Board of Supervisors.
- (D) The Solano County Farm Bureau.
- (E) The Yolo County Farm Bureau.
- (F) The mayor of the city of Rio Vista.

(2) A representative of the California Waterfowl Association appointed by the Association.

(3) A representative of the North Delta Water Agency appointed by that Agency.

(4) One member appointed by the Delta Protection Commission.

(c) **CHAIRPERSON-** The chairperson of the advisory board shall be elected by the members from the members

appointed under subsection (b)(1). The term of office of the chairperson shall be 2 years.

(d) **MEETINGS-** The advisory board shall meet not less than monthly until a management plan is submitted under section 2(2) and at the call of a majority of its members thereafter.

(e) **QUORUM-** A quorum shall consist of 50 percent of the members appointed under subsection (b)(1).

(f) **ADVISORY BOARD PROCEDURES-**

(1) **MEETINGS OPEN TO PUBLIC-** Each advisory board meeting shall be open to the public.

(2) INPUT BY INTERESTED PERSONS- Interested persons shall be permitted to attend the meetings of, or file statements with, the advisory board.

(3) MINUTES- Detailed minutes of each meeting of the advisory board shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the advisory board. The accuracy of all minutes shall be certified to by the chairman of the advisory board.

(g) DUTIES- The duties of the advisory board shall be--

(1) to develop, submit, and provide local oversight of the management plan in accordance with the Act; and

(2) to advise the State regarding management of the Wildlife Area.

(h) PUBLIC PARTICIPATION- The advisory board shall give special consideration to views by local public and private entities and individuals in implementing the Management Plan.

(i) STAFF- The State shall provide staff for the advisory board, under terms and conditions established by the State Secretary of Resources.

(j) ADMINISTRATIVE SUPPORT SERVICES- Upon the request of the advisory board, the State shall provide to the advisory board, on a reimbursable basis, the administrative support services necessary for the advisory board to carry out its responsibilities under this section.

(k) REPORTS- The advisory board shall submit an annual report and such interim reports as the advisory board considers appropriate to the Secretary and the State Secretary of Resources.

(l) NO FEDERAL FUNDS- The requirements of this section are a condition of the transfer authorized by section 1 and no Federal funds may be used to provide compensation to members of the advisory board or to carry out any provision of this section.

## **SEC. 6. CONTINUED LAND USE.**

Nothing in this Act shall be construed as prohibiting or preventing, and it shall be a condition of the transfer of land under this Act that the State shall not for purposes of the Wildlife Area prohibit or prevent, the continuation of ordinary and customary farming and ranching practices within the Wildlife Area and on land outside the exterior boundaries of the Wildlife Area.

## **SEC. 7. WATER USE.**

Nothing in this Act or the creation of the Wildlife Area shall be construed as authorizing any increase, relinquishment, or reduction of any water use or rights reserved or appropriated by the United States.

## **SEC. 8. DEFINITIONS.**

For the purposes of this Act:

(1) MANAGEMENT PLAN- The term 'Management Plan' means the management plan for the land transferred to the State under section 1.

- (2) WILDLIFE AREA- The term 'Wildlife Area' means the land transferred to the State under section 1.
- (3) SECRETARY- The term 'Secretary' means the Secretary of the Interior.
- (4) STATE- The term 'State' means the State of California.

## DRAFT

Honorable Doug Ose

Subject: HR 3554, Bill to Transfer Ownership of Federally Owned Land to the State of California

Dear Congressman Ose:

Thank you for inviting the Delta Protection Commission to comment on your proposed legislation to transfer ownership of Prospect Island (Bureau of Reclamation) and Little Holland Tract (Corps of Engineers) from federal ownership to the State of California. The bill also sets out a process for development of a management plan for those lands with input and guidance from local decision-makers and other parties. The Commission considered the proposed legislation at its May 23, 2002 meeting.

The Delta Protection Commission is a State agency with representation from State agencies, local government, and special districts. While the Commission does not have authority over federal or State agency actions, the Commission has worked with both State and federal agencies to provide a forum for public discussion of proposed projects, and to provide input from the Delta perspective. The Commission's goals are to protect and enhance agriculture, wildlife habitat and recreation in the Primary Zone of the Delta.

HR 3554 includes many recommendations for development of a management plan and participation of Delta interests and land owners in development of such a plan that reflects concerns and comments of the Delta community and members of the Delta Protection Commission. The draft legislation directs that a management plan for the property be prepared with the input of an advisory committee. The Advisory Committee

includes local government, local agricultural representatives, local water interests, local waterfowl habitat experts, and a member appointed by the Delta Protection Commission.

In addition, the draft legislation requires the Management Plan will protect the flood control purposes of the properties, preservation and restoration of endangered species and their habitat, promote scientific research and education, promote participation of volunteers and local groups, and allow for recreation including public access trails,

hunting and fishing. The act would allow continuation of farming and ranching within the subject area. The proposed legislation would allow the State Board of Reclamation to increase flood conveyance capacity in the Yolo Bypass if needed.

The Commission is made up of representatives of local government, special districts and several State agencies. Because of the participation of State agencies on the Commission, the Commission believes State ownership would facilitate and allow more direct communication of issues of concern to the community and neighboring landowners than ownership by federal agencies.

The State already owns several thousand acres of land in the Yolo Bypass, including 13,000 acres acquired just last year and in the preliminary phases of planning. Research on Prospect Island and Little Holland Tract could be incorporated into a new management plan. While the State is suffering from severe fiscal shortfalls, these lands are within the areas designated by CALFED for study, management, and restoration. Funding for development of a management plan and subsequent management might be available from the CALFED program or other sources.

Thank you for seeking the point of view of the Delta Protection Commission on your proposed bill.

Sincerely,

Margit Aramburu  
Executive Director